

Howard Moore, Jr., State Bar No. 55228  
Moore and Moore  
445 Bellevue Avenue, Second Floor  
Oakland California 94610-4924  
Telephone: 510.451.0104  
Facsimile: 510.451.5056

Attorneys for Plaintiff,  
JOCELYN DAVIS

Steven R. Blackburn, State Bar No. 154797  
Lori Bien, State Bar No. 189283  
EPSTEIN BECKER & GREEN, P.C.  
One California Street, 26th Floor  
San Francisco, California 94111-5427  
Telephone: 415.398.3500  
Facsimile: 415.398.0955

Attorneys for Defendant,  
KMART CORPORATION

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

JOCELYN DAVIS,  
  
Plaintiff,

v.

KMART HOLDING COMPANY, a  
corporation dba KMART and dba KMART  
SUPERSTORES, and DOES ONE  
THROUGH TWENTY, inclusive,  
  
Defendants.

CASE NO. C 04 0632 WDB

E-Filing Case

**STIPULATION AND ~~PROPOSED~~  
ORDER EXTENDING NON-EXPERT  
DISCOVERY CUT-OFF AND DEADLINE  
FOR HEARING DISPOSITIVE  
MOTIONS**

Plaintiff Jocelyn Davis ("Plaintiff") and Defendant Kmart Corporation ("Defendant"), by  
and through their undersigned counsel of record, hereby stipulate and agree to the following:

1. The Court's Pre-Trial Order sets August 2, 2005 as the deadline for conducting all  
non-expert discovery and August 16, 2005 as the last day for a hearing on any dispositive

1 motions.

2 2. Defendant has filed a Motion for Partial Summary Judgment which has been  
3 noticed for hearing on August 16, 2005.

4 3. Given this hearing date, Plaintiff's Opposition to Defendant's Motion for Partial  
5 Summary Judgment is due July 26, 2005 and Defendant's must file its Reply by August 2, 2005.

6 4. Plaintiff timely noticed the depositions of witnesses she believes are essential to  
7 preparation of her Opposition to the Motion for Partial Summary Judgment, as well as to the trial  
8 on the merits. Plaintiff has not been able to depose these witnesses, through no fault on the part  
9 of either party, in that, among other things: Jim Forwood, Operations Manager at the store in  
10 which Plaintiff was employed, works at a different store in the Bay Area; Kelly Winters, Store  
11 Manager where Plaintiff was employed, now lives and works in San Diego, California; and  
12 Susan Duncan, a member of a different ethnic group who allegedly assumed Plaintiff's duties  
13 and responsibilities, recently relocated to Miami, Florida.

14 5. By agreement of the parties, the depositions of Mr. Forwood and Ms. Duncan are  
15 set for August 2, 2005, with Ms. Duncan to be deposed by telephone from Miami.

16 6. Ms. Winters' deposition has been scheduled for August 11, 2005, to  
17 accommodate her vacation.

18 7. Since Ms. Winters cannot be deposed until August 11, 2005, the parties agree and  
19 hereby request that the Court extend the deadline for conducting non-expert discovery to that  
20 date and reschedule the hearing on Defendant's Motion for Partial Summary Judgment to August  
21 30, 2005.

22 8. The parties further agree and request that Plaintiff shall file her Opposition to  
23 Defendant's Motion for Partial Summary Judgment by August 18, 2005 and Defendant shall file  
24 its Reply to Plaintiff's Opposition by August 23, 2005.

25 **WHEREFORE**, the parties hereby stipulate and agree that the non-expert discovery  
26 deadline be extended to August 11, 2005 and that the deadline for hearing dispositive motions be  
27 extended to August 30, 2005. The parties further stipulate and agree that Plaintiff's Opposition  
28 to Defendant's Motion for Partial Summary Judgment shall be filed by August 18, 2005 and

1 Defendant's Reply shall be filed by August 23, 2005.

2  
3  
4 DATED: July 25, 2005

MOORE AND MOORE

5  
6 By: /s/  
Howard Moore, Jr.

7  
8 Attorneys for Plaintiff  
JOCELYN DAVIS

9  
10  
11 DATED: July 25, 2005

EPSTEIN BECKER & GREEN, P.C.

12  
13 By: /s/  
Steven R. Blackburn  
Lori Bien

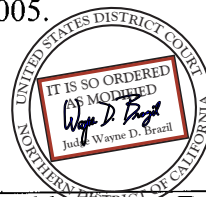
14  
15 Attorneys for Defendant  
KMART CORPORATION

**ORDER**

Pursuant to stipulation, it is so ordered that having reviewed the parties' request to change the deadlines for completion of non-expert discovery and the hearing of dispositive motions, the Court orders that:

1. The deadline for completion of non-expert discovery shall be extended to August 11, 2005.
2. The deadline for hearing dispositive motions shall be extended to ~~August 30, 2005~~ September 1, 2005.
3. Defendant's Motion for Partial Summary Judgment shall be heard on ~~August 30, 2005~~ September 1, 2005, at 1:00 p.m.
4. Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment shall be filed and served by August 18, 2005.
5. Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment shall be filed and served by August 23, 2005.

DATED: July 27, 2005



The Honorable Wayne D. Brazil  
United States Magistrate Judge